

JOSEPH P. RUSSONIELLO (CABN 44332)  
United States Attorney

BRIAN J. STRETCH (CABN 163973)  
Chief, Criminal Division

TRACIE L. BROWN (184339)  
Assistant United States Attorney  
450 Golden Gate Ave., Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7200  
Fax: (415) 436-7234  
E-Mail: tracie.brown@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PATRICIA MORGEN and MICHAEL )  
WARE, )  
 )  
Defendants. )

No. CR 08-0845 CRB

**STIPULATION AND ~~PROPOSED~~  
ORDER EXCLUDING TIME AND  
CONTINUING AUGUST 5, 2009  
HEARING AS TO DEFENDANT  
MICHAEL WARE**

The defendant, Michael Ware, represented by Loren Stewart, AFPD, and the government, represented by Tracie L. Brown, Assistant United States Attorney, are currently scheduled to appear before the Court on August 5, 2009, for status or possible change of plea.

At the last calling of the case on May 27, 2009, the parties agreed and the Court ordered that time be excluded from May 27, 2009 to July 8, 2009 based on effective preparation of counsel, in light of the need to continue to review voluminous discovery. The Court found that failing to exclude time would unreasonably deny the defendant continuity of counsel and would deny defendant's counsel the reasonable time necessary for effective preparation, taking into

ORDER EXCLUDING TIME (WARE)  
Case No. CR 08-0845 CRB

**FILED**

AUG 03 2009

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

2 The parties are currently in the process of negotiating a plea agreement that will resolve  
3 both the charges pending in this District, as well as those pending in the District of Nevada. In  
4 addition, since the last calling of the case, defense counsel has continued to review discovery,  
5 although he has been out of the District for a substantial period of time. Further, counsel for the  
6 government will be out of the District for part of August.

7 Accordingly, the parties request that the Court VACATE the August 5, 2009 hearing, and  
8 continue it to September 2, 2009, which is the next Wednesday on which both counsel and the  
9 Court are available. The parties expect that Mr. Ware will enter a guilty plea on that date. The  
10 parties further request that time be excluded from July 8, 2009 to September 5, 2009, based on  
11 effective preparation and continuity of counsel, in light of the complexity of the case, the volume  
12 of discovery, and the travel schedule of both counsel. It is agreed that failure to exclude time  
13 would unreasonably deny the defendant and the government continuity of counsel and would  
14 deny defendant's counsel the reasonable time necessary for effective preparation, taking into  
15 account the exercise of due diligence. 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

16  
17 DATED: \_\_\_\_7/31/09\_\_\_\_

\_\_\_\_/s/  
TRACIE L. BROWN  
Assistant United States Attorney

18  
19  
20 DATED: \_\_\_\_7/31/09\_\_\_\_

\_\_\_\_/s/  
LOREN G. STEWART  
Attorney for Michael Ware

21  
22 ///

23 ///

24 ///

25 ///

26 ///

27 ///


28 ///

**[PROPOSED] ORDER**

Pursuant to stipulation, it is hereby ordered that the August 5, 2009 hearing is vacated and continued to September 2, 2009, at 2:15 p.m. *10:00 a.m.*

Pursuant to the facts set forth in the parties' stipulation, the Court also finds that the ends of justice served by excluding the time between July 8, 2009 and September 2, 2009 from computation under the Speedy Trial Act outweigh the best interests of the public and the defendant in a speedy trial. Therefore, IT IS HEREBY ORDERED that the time between July 8, 2009 and September 2, 2009 shall be excluded from computation under the Speedy Trial Act. 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

DATED: AUG 6 3 2009

  
\_\_\_\_\_  
THE HON. CHARLES R. BREYER  
United States District Judge